

REMARKS

Claims 1-4 are pending in the present application. Claims 1, 3 and 4 are rejected. Claims 1, 3 and 4 are herein amended.

Applicants' Response to Claim Rejections under 35 U.S.C. §112

Claims 3 and 4 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

It is the position of the Office Action that the claims are indefinite for several reasons. First, the Office Action states that the claims do not specify that the buffer tank is located between the suction pump and the branch manifold. This comment is in reply to the comments on page 10 of the Amendment filed on November 1, 2005.

Applicants argued that claim 3 distinguished over the combination of **Schultz** and **Ade** because neither reference disclosed a buffer tank located between the suction pump and the branch manifold. The Office Action now states that claim 3 is indefinite because there is no mention of the buffer tank being connected to the manifold. Furthermore, the Office Action states that the suction pump could be connected in parallel rather than in series.

In response, Applicants respectfully submit that the claim is sufficiently clear with regard to the structure of the buffer tank, suction pump and branch manifold. Applicants' argument was never that the buffer tank was *connected* to the branch manifold, but rather that the buffer tank

was disposed *between* the suction pump and the branch manifold. The claims as presented already indirectly recite this.

Claim 3 recites that suction pump 5c is connected to the buffer tank 5h; Switching valve 5d is connected to buffer tank 5h, liquid conveying means 5e, and branch manifold 5b; and buffer tank 5h is connected to suction pump 5c and switching valve 5d. When read cumulatively, claim 3 indirectly claims that the buffer tank is between the suction pump and the branch manifold. Please see Figure 1. Applicants respectfully traverse this rejection.

The Office Action makes numerous suggestions in order to overcome the rejection based on 35 U.S.C. §112. The Office Action states that it is unclear what is sucked from the nozzles, that the term “another” should be replaced with “other” or “second,” and that it is unclear if the liquid filling occurs with solution from the vessel or another solution. Applicants herein adopt some of the Examiner’s suggestions. However, Applicants decline to adopt the suggestion of reciting “direct” connections between several elements of the invention. Such an amendment would unnecessarily narrow the scope of the claims.

It is also noted that the Office Action recommends adding the recitation of a “buffer tank” to claim 4. However, since the specification supports a system in which a buffer tank is optional (see page 5, line 24 to page 6, line 2), Applicants respectfully decline to add the limitation of a buffer tank to claim 4. Favorable reconsideration is respectfully requested.

Applicants' Response to Claim Rejections under 35 U.S.C. §103

Claim 1 was rejected under 35 U.S.C. §103(a) as being unpatentable over Tyberg et al. (U.S. Patent No. 6,270,726) in view of Beinert et al. (WO 00/08474).

It is the position of the Office Action that **Tyberg** discloses the invention as claimed, with the exception of a guide located beneath the urging means. The Office Action relies on **Beinert** to provide this teaching. With regard to the argument of the previous Office Action, the current Office Action states that plate 240 of **Beinert** is interpreted to be an equivalent to the claimed guide.

The present invention includes a spring 3a, a collar 3b and a guide 3c. Alternately, a weight 3d may be used in place of the spring 3a. As noted in the specification at page 15, lines 7-10 and illustrated in Figures 5A and 5B, after suction is finished the force of the spring 3a or weight 3d move the nozzle. The collar 3b acts to ensure that the nozzle 2 returns to its initial position.

On the other hand, **Beinert** discloses in Figure 4 a micropipette having a pin spring 257 and a cylinder spring 258. These springs are separated by an unlabelled linking piece. When in the initial position, the springs are fully decompressed and the linking piece does not contact either the guide block 230 or the carrier plate 240.

In response to the rejection, Applicants herein amend claim 1 in order to recite that "said suction nozzle moving means also includes a collar which is in contact with said guide when said suction nozzle is in an initial position." This is clearly illustrated in Figures 5A and 5B.

Applicants respectfully submit that this amendment is distinguishes over the combination of **Tyberg and Beinert**.

Claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz et al. (U.S. Patent No. 6,033,911) in view of Ade et al. (U.S. Patent No. 5,853,665).

It is the position of the Office Action that **Schultz** discloses the invention as claimed, with the exception of disclosing that the buffer tank is located between the suction pump and the branch manifold. The Office Action relies on **Ade** to provide this teaching. As discussed above, Applicants respectfully submit that claim 3 in its current form indirectly recites that the buffer tank is located between the suction pump and the branch manifold.

The Office Action notes that “the examiner cited Ade to show a buffer tank (diluent tank) may be located within an aspiration system at a different position other than that disclosed by Schultz.” The relevance of this statement is unclear. First, it appears that the diluent tank of **Ade** (Figure 1) is in a similar position as the hydraulic solution source 50 of **Schultz** (Figure 1). That is, both of these tanks are disposed at the ends of their respective systems. They are not located between a suction pump and a branch manifold, as required by claim 3. Even if the tanks of **Schultz** and **Ade** were at dissimilar positions, this is insufficient to provide a suggestion or motivation to position the buffer tank between the suction pump and the branch manifold, as required by claim 3.

Additionally, Applicants note that claim 3 as amended requires that “the buffer tank has two ports, a first port is connected to the suction pump and a second port is connected to the

switching valve.” Therefore, the buffer tank of the present invention is distinguishable over the respective tanks of **Schultz** and **Ade**, each of which has only a single port. For at least these reasons, Applicants respectfully submit that the combination of **Schultz** and **Ade** does not disclose the invention as claimed.

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Schultz et al. in view of Tyberg and Beinert, in further view of Yu (U.S. Patent No. 5,779,907).

It is the position of the Office Action that **Schultz** discloses the invention as claimed, with the exception of nozzle moving means including urging means for urging the suction nozzles towards the vessel, a magnet, and a magnet moving means. The Office Action relies on the combination of **Tyberg** and **Beinert** to teach the urging means for urging the suction nozzles toward the vessel, and relies on **Yu** to teach a magnet and magnet moving means.

In response to this rejection, Applicants amend claim 4 in a manner similar to that of claim 1, discussed above. Applicants respectfully submit that this amendment distinguishes over the combination of **Schultz**, **Tyberg**, **Beinert** and **Yu**. Favorable reconsideration is respectfully requested.

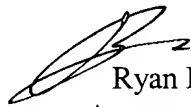
For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants’ undersigned agent.

Amendment After Final
Serial No. 09/875,184
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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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